

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3439 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

RAJU PUNDLIK BAVISKAR

Versus

COMMISSIONER OF POLICE SURAT

Appearance:

MS DR KACHHAVAH for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 28/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 5th November, 1998, made by the

Commissioner of Police, Surat City, under the powers conferred upon him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

It is alleged that the petitioner is a habitual offender and has been committing offences punishable under Chapters XVI and XVII of the IPC. The petitioner is, therefore, alleged to be a 'dangerous person' within the meaning of section 2 (c) of the Act, and his activities are alleged to be detrimental to the public order.

Amongst several other grounds, the learned advocate Ms. Kachhava has submitted that there is a gross delay in taking action against the petitioner after the aforesaid offences were registered against the petitioner. The last of the offences was registered on 6th August, 1998, and in that respect, the petitioner was arrested on 20th August, 1998 and was released on bail on 21st August, 1998. Long after the petitioner's release on bail, i.e. during the period from 3rd September to 9th September, 1998, further evidence was collected in the form of the statements given by the individuals. Relying upon the said statements and the offences registered against the petitioner, the impugned order was made on 5th November, 1998. Thus, there is nearly three months' delay in making the impugned order from the date the last of the offences was recorded. The aforesaid delay has not been explained.

In my view this unexplained delay has snapped the link with the cause of action. The impugned order is, therefore, vitiated.

Petition is, therefore, allowed. The impugned order dated 5th November, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI